



State of New Jersey
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

Jeanne M. Fox
President

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Board Secretary
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March 25, 2004

Re: In the Matter of the Eligibility Specifications for Program Manager of the Clean Energy Program - Docket No. EO04030178; and

In the Matter of the New Jersey Clean Energy Program Docket No. EO02120955

TO INTERESTED PARTIES:

In its September 11, 2003 Order in this matter, the Board of Public Utilities (Board) authorized the Office of Clean Energy (OCE) to assume the role of Administrator of the Clean Energy Program. On January 6, 2004 the Board's Staff solicited stakeholder comments in anticipation of the publication of Requests for Proposals to perform program management duties for the OCE. Interested parties were directed to file comments no later than January 20, 2004, with reply comments due no later than January 27, 2004. Those comments were to address the appropriateness, both from a legal and a policy perspective, of permitting the regulated utilities to perform program management services for the Clean Energy Program. Board Staff is recommending that only the non-regulated affiliate of a utility holding company and independent non-utility entities be eligible to bid on these RFPS.

Based on the comments filed in response to the January 6, 2004 solicitation, the interested parties disagree as to the appropriateness of utilities serving as program managers. Pursuant to N.J.S.A. 48:3-56(c) and N.J.S.A. 48, the Board is authorized to determine whether any service offered by an electric or gas public utility constitutes a competitive service, respectively. Further, N.J.S.A. 48:3-55 and N.J.S.A. 48:3-58 require express written approval from the Board prior to the provision of any competitive service by a gas or an electric public utility. Accordingly, the Board must decide: (1) whether program management is competitive, and, if so, (2) whether the Board approves of any utility offering this service.

All interested parties are hereby given notice and opportunity to submit further written comments on the above-mentioned issues by Wednesday, March 31, 2004. Should any interested party maintain that an evidentiary hearing or other opportunity to be heard must be afforded, the party must include in its letter its reasons for this position, along with a proffer of the evidence it contends requires a further opportunity to be heard. The Board will thereafter determine whether to hold an evidentiary hearing or afford any further opportunity to be heard.

If the Board determines a hearing or other opportunity to be heard is required based on the comments received, it hereby gives notice that such hearing will be held on Thursday, April 8, 2004 at the Board of Public Utilities, 2 Gateway Center, Newark, New Jersey, at 10:00 a.m. Unless the Board determines to hold an evidentiary hearing or other opportunity to be heard, the Board shall decide on the papers whether: (1) the program manager function constitutes a competitive service and, if so, (2) the Board approves of any utility offering this service.

Any questions should be directed to Michael Winka, Administrator, Office of Clean Energy, at (609) 777-3335.

Sincerely,

SIGNED

Kristi Izzo
Secretary of the Board

KI/ac
c: Service List

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In the Matter of the New Jersey Clean Energy Program
Docket No. EO02120955

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